
EVALUATOR MANUAL TRANSMITTAL SHEET

Distribution:

 All Child Care Evaluator Manual Holders
 X All Residential Care Evaluator Manual Holders
 All Evaluator Manual Holders

Transmittal No.

06APX-02

Date Issued

February 2006

Subject:

2005 Chaptered Legislation
Appendix A – Community Care Facilities (Children’s Residential)

Reason For Change:

This transmits summaries of legislation chaptered in 2005 affecting Community Care Facilities (Children’s Residential). The summaries are divided into two sections as follows:

1. Immediate Action Required – Interim instructions are provided.
2. Information Only – No action required by CCLD.

An index is attached to assist staff in locating specific bills. Statutes referenced in this document became operative on January 1, 2006.

Filing Instructions:

REMOVE –

INSERT – the attached pages into Appendix A. Do not remove similar documents from the previous years.

Approved:

THOMAS STAHL, Chief
Policy Development Bureau
Community Care Licensing Division

2/8/06
Date

Contact Person: Vincent Herrera

Phone Number: (916) 445-2154

SUMMARY AND IMPLEMENTATION PLANS 2005 CHAPTERED LEGISLATION

CHILDREN'S RESIDENTIAL FACILITIES

GROUP HOMES	CERTIFIED FAMILY HOMES
FOSTER FAMILY HOMES	SMALL FAMILY HOMES
FOSTER FAMILY AGENCIES	CRISIS NURSERIES

<u>BILL NUMBER/AUTHOR</u>	<u>SUBJECT</u>	<u>PAGE</u>
---------------------------	----------------	-------------

ACTION REQUIRED

AB 1116/Yee	Foster Children - Injections	1-2
SB 358/Scott	Use of Occasional Short-Term Babysitters	3-7
SB 500/Kuehl	AFDC-FC: Pregnant and Parenting Foster Youth	8

INFORMATION ONLY – NO ACTION REQUIRED

AB 1412/Leno	Placement of Dependent Children	9
SB 679/Simitian	Group Home Definition	10

Unless otherwise noted, all new legislation becomes effective on January 1, 2006. When conducting licensing visits, LPAs should, to the extent practical, make sure that providers are aware of any new requirements. However, regardless of whether this information is provided, it is the licensee's responsibility to be aware of any new requirements affecting their program.

ACTION REQUIRED

AB 1116 (Yee), CHAPTER 637, STATUTES OF 2005

Affects: Foster Family Homes, Certified Family Homes, Small Family Homes, Group Homes.

Subject: Foster Children - Injections

Summary: This legislation adds Section 1507.25 to the Health and Safety Code to authorize designated care providers who are not licensed health care providers to administer emergency medical assistance and/or injections for specific reasons to a foster child in placement, if the providers are trained by a licensed health care professional practicing within his or her scope of practice.

Specifically, this legislation:

- Authorizes relative caregivers, nonrelative extended family members, foster family home parents, small family home parents, certified family home parents, substitute caregivers of a foster family home or a certified family home, and direct care staff of a small family home or a group home to:
 - administer **emergency medical assistance and injections for severe diabetic hypoglycemia and anaphylactic shock** to a foster child in care.
- Authorizes relative caregivers, nonrelative extended family members, foster family home parents, small family home parents, certified family home parents, and designated substitute caregivers of a foster family home or a certified family home in the absence of a foster parent to:
 - administer **subcutaneous injections of other medications**, including insulin, as prescribed by the child's physician, to a foster child in care. NOTE: direct care staff members of a small family home or a group home are not permitted to administer subcutaneous injections.
- Requires the training to be given by a licensed health care professional acting within his or her scope of practice.
- Requires the licensed health care professional to periodically review, correct, or update the training as he or she deems necessary and appropriate.
- Clarifies that the administration of an insulin injection shall include all necessary supportive activities related to the preparation and administration of the injection, including glucose testing and monitoring.
- Specifies that a child's need to receive the injections authorized in this legislation shall not be the sole basis for determining that the child has a medical condition requiring specialized in-home health care.

- Specifies that this legislation does not supersede the requirements in Section 369.5 of the Welfare and Institutions Code which are applicable to the administration of psychotropic medication to a dependent child of the court.

Implementation: Beginning January 1, 2006, and until regulations are promulgated, licensing staff shall verify at the facility that those authorized individuals that administer injections to children at the facility have valid written documentation of injection training in their personnel files. The licensing staff shall check the document to make sure the training was provided by a licensed health care professional, such as a Licensed Vocational Nurse (LVN), or Registered Nurse (RN), or Nurse Practitioner (NP), or a Physician (MD). At a minimum, the facility personnel file should contain a letter from the licensed health care professional that contains the following information:

1. Date of training.
2. Name of individual trained.
3. Description of training received.
4. Name and title of trainer.
5. Signature of trainer.
6. Copy of trainer's license.

If the licensee/caregiver is not in compliance, the following steps shall be taken:

- Cite as a Type A violation using Health and Safety Code Section 1507.25 as your authority.
- The Plan of Correction (POC) shall address that administering injections is to stop immediately.
- The POC shall describe:
 - How and when the caregiver will obtain the necessary training;
 - When the caregiver will be able to provide documentation and description of training received; and
 - How the licensee will ensure that the child continues to receive the injections pending the caregiver's completion of the training.
- Immediately elevate the situation to your Licensing Program Manager and Regional Manager if stopping the administration of injections will place the child at risk.

ACTION REQUIRED

SB 358 (Scott), CHAPTER 628, STATUTES OF 2005

Affects: Foster Family Homes, Certified Family Homes, Small Family Homes

Subject: Use of Occasional Short-Term Babysitters

Summary: This legislation adds Section 362.04 to the Welfare and Institutions Code, (W&IC) amends Section 362.05 of the W&IC, and amends Sections 1522 of the Health and Safety Code. This legislation allows a caregiver to arrange for occasional short-term babysitting of their foster child without requiring the babysitter to undergo a criminal record background check, a health screening or cardiopulmonary resuscitation (CPR)/first aid certification or training. Caregivers are required to use a **reasonable and prudent parent standard** in determining and selecting appropriate babysitters for occasional short-term use.

This new law applies only to occasional short-term (less than 24 hours) babysitters and should not be interpreted to apply to respite care providers who are allowed to care for foster children for more than 24 hours.

This new law **does not** affect existing laws that apply to child daycare providers.

SB 358 defines the following terms:

“Caregiver” means any licensed or certified foster parent, approved relative caregiver, or approved nonrelative extended family member.

“Reasonable and prudent parent” or “reasonable and prudent parent standard” means the standard characterized by careful and sensible parental decisions that maintain the child’s health, safety and best interest

“Short-term” means no more than 24 consecutive hours.

The caregiver must endeavor to provide the babysitter with the following information before leaving the child in their care:

- Information about the child’s emotional, behavioral, medical or physical conditions, if any, necessary to provide care for the child during the time the foster child is being supervised by the babysitter.
- Any medication that should be given to the foster child during the time the foster child is being supervised by the babysitter.
- Emergency contact information that is valid during the time the foster child is being supervised by the babysitter.

Implementation: When evaluating a caregiver's compliance with Section 362.04 W&IC the LPA must:

1. First determine whether the babysitting is occasional short-term babysitting.

The bill defines "short-term" to mean no more than 24 consecutive hours. The bill does **not** provide a definition of the term "occasional." However, it does provide several examples of the types of occasions when such babysitting would be authorized. These occasions include, but are not limited to:

- When the foster parent has a medical or other health care appointment, grocery or other shopping, personal grooming appointments
- Special occasions for the foster parents
- Foster parent training classes
- School-related meetings (such as parent-teacher conferences)
- Business meetings
- Adult social gatherings
- Occasional evening out by the foster parent
- Unforeseen changes in work hours beyond ones control (e.g., unexpected overtime)

Other activities considered occasional will occur on a regular basis but are time limited. For example, a foster parent may participate in a bowling league or some other athletic activity that meets once a week from 7:00 p.m. to 9:00 p.m. for the next several weeks.

There will be many different types of occasions/activities when the use of the babysitter will be considered occasional for the purposes of W&IC Section 362.04. There are, however, instances when the provisions of W&IC Section 362.04 do not apply (are not occasional) and foster parents must comply with all licensing requirements (e.g., background check, CPR, and health screening). These examples include:

- Regular after school care when foster parent(s) are working
- Regular babysitting because a foster parent is enrolled in college courses that meet several days per week for an unlimited time duration

If it is determined that the babysitting is not occasional short-term babysitting, the following steps shall be taken:

Cite the caregiver under the appropriate code and/or regulation sections (This will vary among children's residential facility types). An example, Foster Family Home:

- Applicant Qualifications (89317(b)(2) CCR)
- Criminal Record Clearance Requirement (89319 CCR)

- Responsibility for Providing Care and Supervision (89378 CCR)
- Training Requirements (89405 CCR)
- Caregiver Requirements (89465(b)–(d) CCR)
- Health Related Services (89475(b)(1)CCR)

These regulation sections would not apply once it is determined that the babysitting is occasional short-term babysitting.

- The Plan of Correction should require the caregiver to obtain a criminal record clearance immediately and all other corrections within 30 days.
 - If the caregiver believed that his or her use of the babysitter had met the conditions of the law (believed the use of the babysitter was occasional), do not assess the immediate civil penalty for not having fingerprints for the babysitter.
 - However, if you determine that the caregiver had not intended to meet the conditions of the law (being fully aware that the babysitting was more than occasional), and is using a non-fingerprinted and non-cleared babysitter, assess the immediate civil penalty.
- 2. Evaluate whether the caregiver used a reasonable and prudent parent standard in their selection of the babysitter.**

When caregivers arrange for occasional short-term babysitting, W&IC Section 364.02(c) requires them to use a reasonable and prudent parent standard in determining and selecting **appropriate** babysitters. When evaluating whether the caregiver used a reasonable and prudent parent standard in their selection of the babysitter, licensing staff must determine whether the caregiver made a careful and sensible parental decision that maintained the child's health, safety, and best interest. Licensing staff are to determine whether the caregiver:

- Considered the child's age, maturity, mental and physical health, developmental level, behavioral propensities and aptitude, and the ability of the babysitter to provide appropriate care.
- Weighed the foreseeable risks in leaving the child with a babysitter.

If it is determined this was occasional short-term babysitting and that the caregiver made no effort to apply the reasonable and prudent parent standard in the selection of an occasional short-term babysitter, cite the caregiver under W&IC Section 362.04(c), and have the caregiver develop a Plan of Correction that requires the caregiver to make future occasional babysitter selections using the reasonable and prudent parent standard including examples of factors he or she will consider (appropriate to the child) when making future occasional babysitting decisions.

3. Determine whether the caregiver made adequate efforts to provide the babysitter with the following information:

- Information about the child's emotional, behavioral, medical or physical conditions, if any, necessary to provide care for the child during the time the foster child is being supervised by the babysitter.
- Any medication that should be given to the foster child during the time the foster child is being supervised by the babysitter.
- Emergency contact information that is valid during the time the foster child is being supervised by the babysitter.

When evaluating a caregiver's compliance with this requirement, licensing staff must evaluate whether a caregiver provided or made an effort to provide the babysitter with the information. If it is determined that the caregiver did not provide or make an effort to provide the information, cite the caregiver under W&IC Section 362.04(d), and have the licensee develop a Plan of Correction. As part of the Plan of Correction, the licensee should be provided with suggestions for proper compliance.

It is important that the LPA evaluate the caregiver's decisions and actions based on the reasonable and prudent parent standard and not on his or her own personal views. Equally reasonable and prudent parents may differ on their assessment of a given situation. Therefore, the LPA must consider all of the circumstances surrounding the caregiver's decisions and determine whether, given the information available to the caregiver, a reasonable and prudent parent could have acted similarly. If so, then the LPA must not cite regardless of whether the LPA would have acted differently.

If an LPA has any questions or concerns whether a caregiver is using a babysitter inappropriately, or to discuss the seriousness of a situation, they should discuss the specifics with their Licensing Program Manager. In order to ensure consistency of enforcement statewide, complaints involving W&IC Section 362.04 should be discussed with the LPA's manager, and any questions or concerns should be elevated prior to findings being issued.

If a caregiver asks for suggestions on how to comply with W&IC Section 362.04, licensing staff may encourage the caregiver to:

- Consider the child's age, maturity, mental and physical health, developmental level, behavioral propensities and aptitude, and the ability of the babysitter to provide appropriate care.
- Weigh the foreseeable risks in leaving the child with a babysitter.
- Discuss their concerns with the child's social worker if the caregiver is unsure.

In enacting SB 358, the Legislature has recognized that current regulatory requirements can be barriers to the recruitment and retention of high-quality foster parents. Eliminating these regulatory barriers and allowing caregivers to select babysitters to provide occasional short-term care to foster children should provide a more normalizing life experience for both the foster child and caregivers.

NOTE: In complaint cases regarding babysitting abuse, explain and complete the following:

- SB 358 limits CCLD's investigation of these types of complaints to whether or not the provider is using an occasional short-term babysitter, made an appropriate prudent parent decision regarding who is babysitting and whether or not the foster parent provided the babysitter with the information they needed to provide proper supervision.
- Allegations of abuse by the babysitter fall under the jurisdiction of the local law enforcement and Child Protective Services (CPS).
- Complete a Child Abuse Complaint Referral and cross report accordingly if you suspect that abuse occurred.
- Complete the LIC 802 based upon the SB 358 guidelines listed above per W&IC section 362.04.
- If a referral is made to CPS and/or law enforcement, request a copy of the police report investigation for possible use in an administrative action against the babysitter.

ACTION REQUIRED

SB 500 (Kuehl), CHAPTER 630, STATUTES OF 2005

Affects: Group Homes, Foster Family Agency, Foster Family Homes, Certified Family Homes, Small Family Home

Subject: Aid to Families with Dependent Children - Foster Care (AFDC-FC):
Pregnant and Parenting Foster Youth

Summary: This legislation amends Welfare and Institutions Code Sections 300, 362.1, 11400, 11401, and 11465 and adds Section 16501.25. It creates "Whole Family Foster Homes." Whole Family Foster Homes are family homes, approved relative caregiver or nonrelative extended family member homes, or certified homes that provide foster care for minor parents and their children, and are specifically recruited and trained to assist the minor parents in developing the skills necessary to provide a safe, stable, and permanent home for their children. These facilities represent a more "family-like" placement specific to this population of children in foster care.

SB 500 requires that a "shared responsibility plan" be developed between the minor parent, caregiver, and other county or state representatives, when a teen parent and child are placed in a Whole Family Foster Home and the child of the teen parent is not adjudged a dependent of the court. "Shared Responsibility plans" are developed to avoid any confusion about the roles and responsibilities of the caregiver and the teen parent in providing care to the teen parent's non-adjudicated child. The plan should address areas of common conflict, such as: feeding, clothing, hygiene, etc.

This bill also establishes a new AFDC-FC rate for "whole family foster home". Once the "shared responsibility plan" is completed and submitted to the appropriate agencies, the new rate category may be applied.

Implementation: If a complaint is received by **CCLD** that the county social worker did not complete or provide a copy of the "Shared Responsibility plan", the LPA shall instruct the complainant to contact:

- The teen's attorney, or
- The teen's social worker, or
- CDSS/CFSD-Concurrent Planning Unit at (916) 651-7464.

If during a visit to a whole foster family home, the LPA observes the infant is neglected or abused, he/she should cite under the care/supervision authority.

INFORMATION ONLY – NO ACTION REQUIRED

AB 1412 (Leno) CHAPTER 640, STATUTES of 2005

Affects: Foster Family Homes, Certified Family Homes, Small Family Homes, Group Homes

Subject: Placement of Dependent Children

Summary: This legislation amends Welfare and Institutions Code (W&IC) Sections 366, 366.1, 366.21, 366.22, 366.26, 366.3, 16001.9, and 16500.1, 16501.1, and adds Section 366.35, relating to dependent children. The provisions of AB 1412 are as follows:

- Gives a child in foster care the right to be involved in the development of his/her case plan and plan for permanent placement, as age and developmentally appropriate.
- Allow a child who is 12 years of age or older (instead of over 12 years of age) to review, sign, and receive a copy of his/her case plan and to be notified of changes to their case plan.
- Require county social workers to ask foster children, age 10 years or older, who have been in out-of-home placement for six months or longer (instead of who have been in group homes from the date the child entered foster care), about individuals who are important to the child, other than their siblings. The goal is to maintain relationships with individuals that are significant to the minor, provided it is not inconsistent with the best interest of the child.
- Require county social workers to locate, interview and conduct a background check on each individual identified to make a determination consistent with the child's best interest.

Note: County social workers are responsible for developing a child's case plan. One of the components of a child's case plan is the identification of the child's specific needs and services. Although ensuring a licensee complies with all the elements that make up the Needs and Services plan falls under the jurisdiction of CCLD, AB 1412 only pertains to the case plan. Therefore, if a complaint is received by CCLD that the county social worker did not complete or provide a copy of the case plan to the youth, the LPA will instruct the complainant to contact:

- The youth's attorney, or
- The youth's social worker, or
- CDSS/CFSD-Concurrent Planning Unit at (916) 651-7464.

INFORMATION ONLY – NO ACTION REQUIRED

SB 679 (Simitian) CHAPTER 268, STATUTES of 2005

Affects: Group Homes Operated by San Mateo County

Subject: Group Home Definition

Summary: This legislation changes the definition of a group home and allows San Mateo County to have a rate established for a county operated facility.

This legislation amends Section 11400 of the Welfare and Institutions Code (W&IC) by adding the following words to the existing Group Home definition:

"or a nondetention licensed residential home operated by the County of San Mateo with a capacity of up to 25 beds."

This legislation also adds Section 11462.02 to the W&IC to allow a foster care provider licensed as a group home to have a rate established if the group home is operated by the County of San Mateo and meets the provisions in the amended group home definition.

These changes to the W&IC will allow Canyon Oaks Youth Center Waiver Demonstration Project, a group home operated by San Mateo County, to qualify for a rate after their current waiver expires in August 2006.

Any questions related to this bill should be directed to the bill's author's office.